

5-06  
**MANDATE**

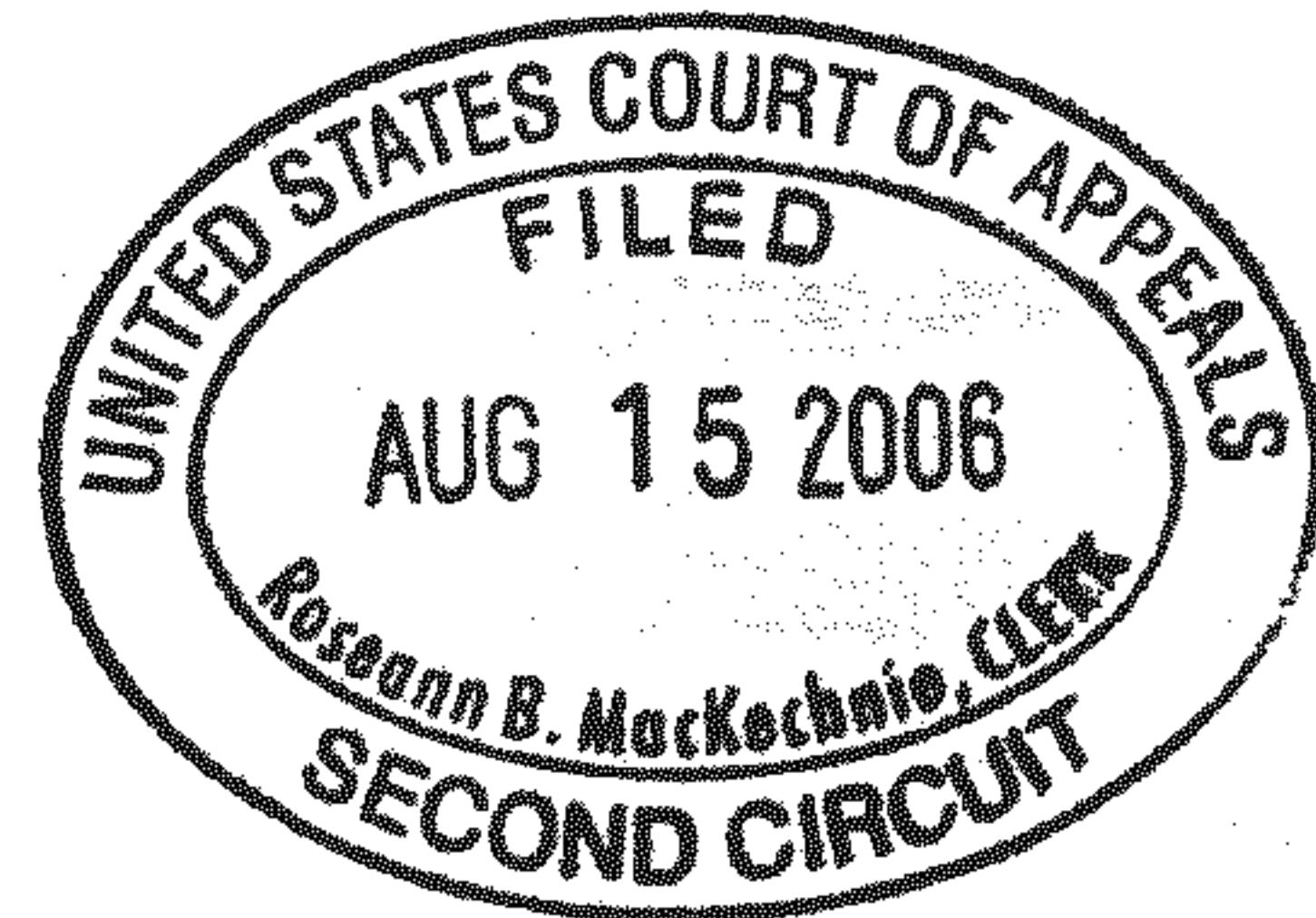
S.D.N.Y. /NYY  
03-cr-632  
Batts, J.

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse, Foley Square, in the City of New York, on the 15 day of August two thousand six,

Present:

Hon. Chester J. Straub,  
Hon. Rosemary S. Pooler,  
Hon. Robert D. Sack,  
*Circuit Judges.*



United States of America,

Appellee,

v.

05-4509-cr

Jorge Ortiz,

Defendant-Appellant.

Robin C. Smith, counsel for appellant, moves for permission to withdraw as counsel pursuant to *Anders v. California*, 386 U.S. 738 (1967), and the Government moves to dismiss the appeal as untimely. Upon due consideration, it is hereby ORDERED that the Government's motion is GRANTED and the appeal is DISMISSED.<sup>1</sup> This Court lacks the authority to grant an extension of time in which to file a notice of appeal. See Fed. R. App. P. 4(b)(4); see also Fed. R. App. P. 26(b)(1). Accordingly, the motion to withdraw as counsel is DENIED as moot.

FOR THE COURT:  
Roseann B. MacKechnie, Clerk

By *Michelle Carr*

A TRUE COPY  
Roseann B. MacKechnie, CLERK  
by *Ralph Abes*  
DEPUTY CLERK

<sup>1</sup>The appeal is dismissed without prejudice to renewal in a 28 U.S.C. § 2255 motion of Appellant's claim that his counsel was ineffective for failing to file a notice of appeal, as to the merits of which we express no opinion.